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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,126	07/15/2003	Stefan Kruck	3201-337 (D4700-00350)	7848
8933	7590	09/14/2005	EXAMINER	
DUANE MORRIS, LLP IP DEPARTMENT 30 SOUTH 17TH STREET PHILADELPHIA, PA 19103-4196			DUNWOODY, AARON M	
			ART UNIT	PAPER NUMBER
			3679	

DATE MAILED: 09/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/620,126	KRUCK, STEFAN
	Examiner Aaron M. Dunwoody	Art Unit 3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 05 July 2005.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,2 and 4-16 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1,2 and 4-16 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/5/2005 has been entered.

Specification

35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are:

The bushing (10) and the adapter (7) are confusing as to what the plug-in is. It appears that the bushing is an opening. Page 5 of the instant application recites:

A stepped bore 10, whose section having the larger diameter faces downward, i.e., opens toward the inlet end, is arranged in the adapter element. The end 11 of the 12 is inserted into this cylindrical opening 10 forming a plug-in bushing.

Further, the specification fails to clearly support the structural description of the claimed invention.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4-7 and 9-16 are rejected under 35 U.S.C. 102(b) as being anticipated by US patent 4443028, Hayes.

In regards to claim 1, Hayes discloses a plug-in connector comprising:

a plug-in bushing (12) associated with a plumbing fixture;

an undercut (28) associated with the plug-in bushing;

a flange (52) having a non-circular shaped perimeter, the flange being attachable to a line (14) near an end of the line, wherein the line is connected to the plumbing fixture by inserting the line with the flange thereon into the plug-in bushing beyond the undercut, and engaging the flange with the undercut by rotating the flange; and

the undercut being configured such that the undercut and flange will be wedged together when the line is rotated.

In regards to claim 2, Hayes discloses the undercut being configured such that the line, along with the flange, may be rotated to the extent that withdrawal of the line from the plug-in bushing will be prevented by engagement of the flange with the undercut.

In regards to claim 4, Hayes discloses the flange being configured such that the undercut and flange will be wedged together when the line is rotated.

In regards to claim 5, Hayes discloses the undercut and the flange jointly forming a bayonet connector when the line is rotated.

In regards to claim 6, Hayes discloses the undercut being formed on one side of the plug-in bushing only.

In regards to claim 7, Hayes discloses the undercut being formed around the end of the line.

In regards to claim 9, Hayes discloses the plumbing fixture having a housing and the plug-in bushing being formed in an adapter element, situated between a mixer cartridge and the housing of the plumbing fixture.

In regards to claim 10, Hayes discloses the plumbing fixture having a housing and the undercut being formed in the housing of a plumbing fixture.

In regards to claim 11, Hayes discloses the undercut being formed in the adapter element.

In regards to claim 12, Hayes discloses ends of the undercut in the adapter element being open and may be closed by inserting the adapter into the housing of the plumbing fixture.

In regards to claim 13, Hayes discloses ends of the plug-in bushing in the adapter element being open and may be closed by inserting the adapter into the housing of the plumbing fixture.

In regards to claim 14, Hayes discloses the flange being located at a distance from the free end of the line.

In regards to claim 15, Hayes discloses an axial force acting on the flange forcing the flange up against the undercut in order to clamp the end of the line having the flange in the plug-in bushing.

In regards to claim 16, Hayes discloses an elastic element (16) being provided in order to exert the axial force acting on the flange.

In regards to claim 17, Hayes discloses the elastic element being formed by an O-Ring.

Claims 1, 2, 4-16 are rejected under 35 U.S.C. 102(b) as being anticipated by US patent 2819097, Lang.

In regards to claim 1, Lang discloses a plug-in connector comprising:
a plug-in bushing (10) associated with the plumbing fixture;
an undercut (31, 34) associated with the plug-in bushing;
a flange (45) having a non-circular shaped perimeter, the flange being attachable to a line (42) near an end of the line, wherein the line is connected to the plumbing fixture by inserting the line with the flange thereon into the plug-in bushing beyond the undercut, and engaging the flange with the undercut by rotating the flange; and
the undercut being configured such that the undercut and flange will be wedged together when the line is rotated.

In regards to claim 2, Lang discloses the undercut being configured such that the line, along with the flange, may be rotated to the extent that withdrawal of the line from the plug-in bushing will be prevented by engagement of the flange with the undercut.

In regards to claim 4, Lang discloses the flange being configured such that the undercut and flange will be wedged together when the line is rotated.

In regards to claim 5, Lang discloses the undercut and the flange jointly forming a bayonet connector when the line is rotated.

In regards to claim 6, Lang discloses the undercut being formed on one side of the plug-in bushing only.

In regards to claim 7, Lang discloses the undercut being formed around the end of the line.

In regards to claim 8, Lang discloses the undercut being at least partially formed ahead of the plug-in bushing.

In regards to claim 9, Lang discloses the plumbing fixture having a housing and the plug-in bushing being formed in an adapter element, situated between a mixer cartridge and the housing of the plumbing fixture.

In regards to claim 10, Lang discloses the plumbing fixture having a housing and the undercut being formed in the housing of a plumbing fixture.

In regards to claim 11, Lang discloses the undercut being formed in the adapter element.

In regards to claim 12, Lang discloses ends of the undercut in the adapter element being open and may be closed by inserting the adapter into the housing of the plumbing fixture.

In regards to claim 13, Lang discloses ends of the plug-in bushing in the adapter element being open and may be closed by inserting the adapter into the housing of the plumbing fixture.

In regards to claim 14, Lang discloses the flange being located at a distance from the free end of the line.

In regards to claim 15, Lang discloses an axial force acting on the flange forcing the flange up against the undercut in order to clamp the end of the line having the flange in the plug-in bushing.

In regards to claim 16, Lang discloses an elastic element (39) being provided in order to exert the axial force acting on the flange.

In regards to claim 17, Lang discloses the elastic element being formed by an O-Ring.

Response to Arguments

Applicant's arguments filed 7/5/2005 have been fully considered but they are not persuasive.

In regards to the Applicant's argument that neither Hayes nor Lang is configured to wedge the undercut and flange together when rotated. It has been held that the recitation that an element is "adapted to" [configured] perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138..

Further, a comparison of the recited process with the prior art process does NOT serve to resolve the issue concerning patentability of the product. In re Fressman, 489

F2d 742, 180 U.S.P.Q. 324 (CCPA 1974). Whether a product is patentable depends on whether it is known in the art or it is obvious, and is not governed by whether the process by which it is made is patentable. In re Klug, 333 F2d 905, 142 U.S.P.Q. 161 (CCPA 1964). In an ex parte case, product-by-process claims are not construed as being limited by the product formed by the specific process recited. In re Hirao et al., 535 F2d 67, 190 U.S.P.Q. 15, see footnote 3 (CCPA 1976).

In regards to the Applicant's arguments that Hayes and Lang teach away from the claimed invention, simply that there are differences between two references is insufficient to establish that such references "teach away" from any combination thereof. In re Beattie, 974 F.2d 1309, 1312-13, 24 USPQ2d 1040, 1042 (Fed. Cir. 1992).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron M. Dunwoody whose telephone number is 571-272-7080. The examiner can normally be reached on 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 571-272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Aaron M Dunwoody
Primary Examiner
Art Unit 3679

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